

U.P. STATE ROAD TRANSPORT CORPORATION
v.
REGIONAL TRANSPORT AUTHORITY AND ORS. ETC.

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SEPTEMBER 1, 1998

[DR. A.S. ANAND AND B.N. KIRPAL, JJ.]

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Motor Vehicles Act, 1939/U.P. State Road Transport Services (Development) Rules, 1974 :

Ss. 58(2)(a), 68-F(1)(E)/R. 10(4)—Notified routes—Application by U.P. State Road Transport Corporation for Stage Carriage permit—Renewal of—Held, permit remains valid till the scheme remains in force—There is no need for renewal of the existing permit during the period when the scheme remains in force.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4637 of 1998 Etc.

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From the Judgment and Order dated 25.1.91 of the Allahabad High Court in C.M.W.P. No. 10064 of 1988.

Pramod Swarup for the Appellant.

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R.C. Verma, R.B. Misra, Kamendra Misra, Sunil K. Jain and Vijay Hansaria for the Respondents.

The following Order of the Court was delivered :

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C.A.No.4637 of 1998 (@ SLP(C) No. 13937/92)

Leave granted.

The short question requiring our consideration is : whether the U.P. State Road Transport Corporation (hereinafter the 'Corporation') is required to renew the permits obtained by it to ply its vehicles on a notified route during the subsistence of a scheme ? The High Court has answered the question in the affirmative.

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In short, the facts leading to the filing of the appeal are that the Regional Manager, U.P. State Road Transport Corporation, Gorakhpur

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- A requested the Regional Transport Authorities for issuance of permits for routes covered by a scheme reserved for exclusive operation by the Corporation. In response to the Regional Manager's letter, he was informed that according to the provisions of Section 58(2) (a) of the Motor Vehicles Act, 1939 (hereinafter the 'Act') permits could be issued for a maximum period of three years and were thereafter required to be renewed.
- B appellants were informed that on payment of permit fee as well as the prescribed fee under Rule 55 of the U.P. Motor Vehicles Rules, 1940 (hereinafter referred to as the 'Rules') the permit issued to the Corporation should be got renewed. The appellants questioned the directions issued by the authorities by filing a writ petition in the High Court. The High Court
- C vide its judgment dated 25.1.1991 allowed the writ petition partially. It was held that the Corporation was required to apply for *renewal* of the permit under section 68-F(1)(E) of the Act for the period prescribed under sub-section 58(2)(a) if the Act read with the relevant rules and on making such an application, permit issued to the Corporation would be renewed.
- D The High Court did notice that Rule 10(4) of the Rules lays down that a permit issued to the Corporation is to remain valid till the scheme remains in force, but came to the conclusion that such a Rule could not override or be inconsistent with the provisions of section 58(2)(a) of the Act and, therefore, held that notwithstanding Rule 10(4) of the Rules, renewal of the permit was essential to make it valid for the renewed period to ply the
- E vehicles by the Corporation. This appeal by special leave calls in question that judgment and order of the High Court.

We have heard the learned counsel for the parties and examined the record.

- F Chapter IV of the Act deals with control of transport vehicles including the provisions for issuance of permits and the manner of renewal of the same. This Chapter, however, is general in nature and deals with *non-notified* routes. Chapter IV-A of the Act on the other hand exclusively contains special provisions relating to the State Transport Undertakings and concerns itself with *notified routes*. This chapter was inserted by Act
- G 100 of 1956 w.e.f. 16.2.1967.

Section 68-B of the Act which occurs in Chapter IV-A reads.:

- H "68-B Chapter IV-A to override Chapter IV and other laws - The provisions of this Chapter and the rules and orders made there-

under shall have effect notwithstanding anything inconsistent therewith contained in Chapter IV of this Act or any other law for the time being in force or in any instrument having effect by virtue of any such law." A

A bare reading of section 68-B (supra), thus, shows that Chapter III A of the Act has an overriding effect notwithstanding anything contained in any other law for the time being in force including Chapter IV of the Act to the extent of anything being inconsistent with what is contained in Chapter IV A. B

Section 68-F (I-E) (Chapter IV-A) relates to issuance of permits to the State Transport Undertakings. It reads : C

"68-F Issue of permits to State Transport undertakings (1) Where, in pursuance of an approved scheme, any State transport undertaking applies (in such manner as may be prescribed by the State Government in this behalf) for a stage carriage permit or a public carrier's permit or a contract carriage permit in respect of a notified area or notified route, the [State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case] shall issue such permit to the State transport undertaking, notwithstanding anything to the contrary contained in Chapter IV. D E

(1-E) Where a State transport undertaking applies for renewal of a permit within the period specified in sub section (2A) of Section 58, the State Transport Authority or, as the case may be the Regional Transport Authority, shall, renew such permit, notwithstanding anything to the contrary contained in Chapter IV". F

Section 68(1) confers Rule making powers on the State Government. Sub-clause (cc) of clause (2) thereof enables the State Government to frame Rules regarding the manner in which applications under sub-section (1) of Section 68 F are to be made. The U.P. State Road Transport Services (Development) Rules, 1974 have been framed under the aforesaid Rule making power. Rule 10 thereof deals with the subject. It provides : G

"Rule 10. Application for permit for services of stage carriage (Section 68-1(2)(cc) H

A 1. An application for stage carriage permit and public carrier's permit of contract carriage permit in respect of the notified routes/areas in pursuance of the approved scheme shall be made on behalf of the State Transport Undertaking in Form III.

B 2. Upon receipt of an application under sub-rule (1) the State Transport Authority as the case may be issued a permit to the State Transport Undertaking for the notified route or notified area accordingly.

3. Every permit issued as aforesaid shall in 2 parts namely, Para 'A' and Part 'B' and be in Form 'IV'.

C 4. *The permit issued as aforesaid shall remain valid till the scheme remains in force.*

D 5. There shall be paid a fee of Rs. 5 only in respect of an application for a permit made before the Regional Transport Authority and a fee of Rs. 10 only in respect of such application made before the State Transport Authority.

E 6. Duplicate permit to any part of the permit shall be issued by the State Transport Authority or Regional Transport Authority concerned as the case may be, on a payment of Rs. 5 for Part 'A' and Rs. 2 for Part 'B' in case the same gets mutilated or lost."

F A combined reading of Section 68-B, 68-F (I-E) and Rule 10 (supra) shows that insofar as *notified routes* are concerned, for which the Corporation has an exclusive right to ply their vehicles under the scheme framed under the Act, the duration of the permit obtained by the Corporation for plying those vehicles is co-terminus with the life of the scheme. Sub-clause (4) of Rule 10 unmistakably says "the permit issued as aforesaid shall remain valid *till* the scheme remains in force".

G The Division Bench of the High Court, it appears overlooked the distinction between the provisions of Chapters IV and IVA of the Act. So far as Chapter IV is concerned, as already noticed, it deals with essentially speaking, *non-notified* routes. Section 58(2)(a) of the Act which occurs in Chapter IV applies only to *non-notified* routes and *not* to the *notified routes*, even when the Corporation may also be plying their vehicles on the non-notified routes. However, so far as notified routes are concerned, Chapter H IVA of the Act which contains special provisions governs the field and

being "social" it overrides the "general provisions" of Chapter IV. Thus the grant of permit to the Corporation for plying its vehicle on *notified routes* remains valid till the scheme remains in force. There is thus no need for renewal of the existing permit during the period when the scheme is in force. The Corporation does not need to make any fresh application for renewal of the permit after 3 years or 5 years so long as the scheme is in force. The necessity to seek renewal of a permit after the expiry of the period prescribed in the permit is only relevant where the permit is granted even to the Corporation under Chapter IV of the Motor Vehicles Act and not under Chapter IV A of the Act. The view of the authorities to the contrary which has been upheld by the Division Bench of the High Court is thus clearly erroneous and cannot be sustained.

Thus, for what has been said above, the impugned judgment and order dated 25.1.1991 made in Writ Petition No.1006/1988 is hereby set aside. The effect of this order would be that the writ petition would stand allowed and the permit obtained by the Corporation to ply the vehicles on the notified routes will continue to remain valid till the scheme is in force and would not require any renewal during the subsistence of the scheme. No costs.

C.A. No. of 1998 (@ SLP(C) No. 12732 of 1992)

In this appeal arising out of SLP(C) No. 12732/95, which calls in question the judgment and order of the High Court dated 12.8.1992 made in Writ Petition No. 10837 of 1992, the Division Bench of the High Court followed its earlier judgment in *U.P. State Road Transport Corporation v. The Regional Transport Authority, Gorakhpur*. For the reasons stated by us in the appeal filed by the U.P. State Road Transport Corporation [C.A. No. of 1998(@ SLP(C) No. 13937 of 1992)], this appeal also succeeds and is allowed on the same terms as that appeal.

Leave granted. After hearing learned counsel for the parties, we are of the opinion that the interpretation placed by the learned Division Bench of the High Court on Section 104 of the Motor Vehicles Act, 1988 is unexceptionable and calls for no interference. We, however, find that the view taken by the High Court to the effect that since the Corporation did not get the permits renewed, which were granted to it in 1987 with regard to the nationalised routes it could not ply its vehicles on the notified routes

- A without a renewal permit for the reasons given by us in *U.P. State Road Transport Corporation v. Regional Transport Authority and Others*, (C.A. No. 4637 of (1998) @SLP (C) No. 13937/1992) is erroneous and cannot be sustained. The reasons given by us in that judgment would apply insofar as this aspect is concerned to this appeal also. With these observations the
- B appeal is disposed of. No costs.

R.P.

Appeal allowed/disposed of.